

NATIONAL RECOVERY ADMINISTRATION

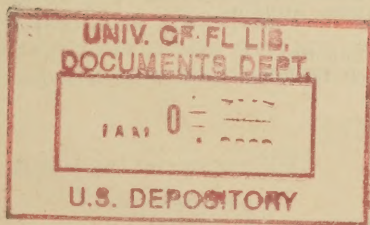
CODE OF FAIR COMPETITION

FOR THE

ROCK AND SLAG WOOL

MANUFACTURING INDUSTRY

AS APPROVED ON MARCH 6, 1934



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Approved Code No. 321

CODE OF FAIR COMPETITION

FOR THE

ROCK AND SLAG WOOL MANUFACTURING
INDUSTRY

As Approved on March 6, 1934

ORDER

APPROVING CODE OF FAIR COMPETITION FOR THE ROCK AND SLAG WOOL
MANUFACTURING INDUSTRY

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for approval of a Code of Fair Competition for the Rock and Slag Wool Manufacturing Industry, and hearings having been duly held thereon and the annexed report on said Code, containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, I, Hugh S. Johnson, Administrator for Industrial Recovery, pursuant to authority vested in me by Executive Orders of the President, including Executive Order No. 6543-A, dated December 30, 1933, and otherwise; do hereby incorporate by reference said annexed report and do find that said Code complies in all respects with the pertinent provisions and will promote the policy and purposes of said Title of said Act; and do hereby order that said Code of Fair Competition be and it is hereby approved.

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval recommended:

W. A. HARRIMAN,
Division Administrator.

WASHINGTON, D.C.,
March 6, 1934.

REPORT TO THE PRESIDENT

The PRESIDENT,

The White House.

SIR: This is a report on the Code of Fair Competition for the Rock and Slag Wool Manufacturing Industry as revised after a public hearing conducted in Washington, D.C., on January 30, 1934, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS AS TO WAGES AND HOURS

All, except office employees, shall be paid a minimum rate of forty cents per hour in the northern section and thirty-five cents per hour in the southern section. Office employees shall be paid a minimum wage of fifteen dollars per week. Office boys and girls shall be paid not less than eighty percent of this rate and shall not exceed in number five percent of an employer's total number of office employees.

Handicapped workers may be employed at wages below the minimum. Female employees performing substantially the same work as male employees shall receive equal pay. Adjustment of wage rates above the minimum will be made within sixty days after approval of this Code.

Forty hours shall be the maximum number of working hours for any week and eight hours for any day except during any six weeks in a six months period forty-eight hours in one week is permissible. Those engaged in executive, managerial or supervisory work (except foremen engaged in manual labor) who regularly receive thirty-five dollars or more per week and outside salesmen are excepted from this provision. Employees engaged solely at maintenance and repair work, truckmen, firemen and engineers may work nine hours a day or forty-four hours a week except during any six weeks in a six months period forty-eight hours in one week is permissible. Watchmen shall not be employed in excess of fifty-six hours in any one week. Office employees, except those receiving thirty-five dollars per week or more shall not be employed in excess of nine hours per day or forty hours per week. All employees, except office employees and watchmen shall be paid at the rate of time and one-half for time worked in excess of forty hours per week or eight hours per day.

ECONOMIC EFFECTS OF THE CODE

The uses for the products of this Industry may be classified into two major classes: industrial installation for hot surfaces and domestic insulation. There were nine concerns engaged in the manufacture of rock and slag wool in 1929, twenty-eight concerns in 1933. This increase represents a number of small concerns entering the field.

The sales for 1933 were eight percent less than 1929 but fifty-five percent above 1932. According to the Research and Planning Division's report there were, in 1929, three hundred and forty-eight wage earners employed by the industry, in 1933 eight hundred and fifty-five. This increase was partly due to the increase in the number of concerns engaged in the Industry and partly because of the P. R. A.

Average hours worked per week in 1929 were sixty-one. The hourly provision of the Code will reduce the hours worked per week by about thirty percent. Should volume of business increase, this industry will be able to absorb workers from other industries that are not able to reabsorb their entire force.

Seventy-five percent of the wage earners in this industry will be affected by the minimum wage provisions of this Code. For this reason, and also the provision that there shall be an equitable adjustment of wages above the minimum, the purchasing power of the wage earners in this industry should be materially increased. Trade practice provisions of the Code are expected to remedy many of the Industry evils that have been prevalent in the past.

FINDINGS

The Assistant Deputy Administrator in his final report to me on said Code having found as herein set forth and on the basis of all the proceedings in this matter:

I find that:

(a) Said Code is well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among the trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanctions and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) Said Industry normally employs not more than 50,000 employees; and is not classified by me as a major industry.

(c) The Code as approved complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7, and Subsection (b) of Section 10 thereof; and that the applicant association is an industrial association truly representative of the aforesaid Industry; and that said association imposes no inequitable restrictions on admission to membership therein.

(d) The Code is not designed to and will not permit monopolies or monopolistic practices.

(e) The Code is not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said Code.

For these reasons, therefore, I have approved this Code.

Respectfully,

HUGH S. JOHNSON,
Administrator.

MARCH 6, 1934.

CODE OF FAIR COMPETITION FOR THE ROCK AND SLAG WOOL MANUFACTURING INDUSTRY

ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are established as a Code of Fair Competition for the Rock and Slag Wool Manufacturing Industry, and shall be the standard of fair competition for such Industry and shall be binding upon every member thereof.

ARTICLE II—DEFINITIONS

SECTION 1. The term "Rock and Slag Wool Industry" as used herein includes the manufacturing, the manufacturing and selling by a manufacturer, and the selling as or by a manufacturer of the products listed in Section 2 of this Article, and such branches or subdivisions of said Industry as may from time to time be included under the provisions of this Code.

SECTION 2. The term "Products", means Rock and Slag Wool Blankets, Rock and Slag Wool Pipe Covering, Rock and Slag Wool Blocks, Rock and Slag Wool Loose, Rock and Slag Wool Granulated, Rock and Slag Wool Home Insulation—Loose, Modulated, Bats, or Rolls—Rock and Slag Wool Cements. Other Rock and Slag Wool Products.

SECTION 3. The term "employee" as used herein includes anyone engaged in the Industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

SECTION 4. The term "employer" as used herein includes anyone by whom any such employee is compensated or employed.

SECTION 5. The term "Member of the Industry" as used herein includes anyone engaged in the Industry as above defined, either as an employer or on his own behalf.

SECTION 6. The term "trade" as used herein shall mean all channels of distribution of the products, except members of the industry.

SECTION 7. The term "Member of the Code" as used herein includes any member of the Industry who shall expressly assent to this Code in accordance with Section 2, paragraph (c), Article VI.

SECTION 8. The terms "President", "Act", and "Administrator" as used herein shall mean respectively the President of the United States, Title I of the National Industrial Recovery Act, and the Administrator for Industrial Recovery.

SECTION 9. The term "Association" as used herein means the National Association of Rock and Slag Wool Industries, an unincorporated association.

SECTION 10. The term "Southern Section" as used herein means the States of North Carolina, Tennessee, Arkansas, Oklahoma, Texas,

Louisiana, Mississippi, Alabama, Georgia, South Carolina and Florida.

SECTION 11. The term "Northern Section" as used herein means all states of the United States not included in the term "Southern Section."

ARTICLE III—HOURS

SECTION 1. No employee, excluding accounting, clerical, and office employees, shall be employed in excess of forty (40) hours in one week, or eight (8) hours in any twenty-four (24) hour period, except that during any six (6) weeks in any six (6) months' period employees may be employed not more than forty-eight (48) hours per week, providing one and one half ($1\frac{1}{2}$) times the normal rate of pay shall be paid for hours worked in excess of eight (8) hours per day and forty (40) hours per week; nor shall they be permitted to work more than six (6) days in any seven (7) day period. The foregoing limitations shall not apply to:

(a) Those employed in executive, managerial, or supervisory work who regularly receive thirty-five (\$35.00) dollars or more per week. Foremen engaged in manual labor shall not be considered to be in such supervisory capacity;

(b) Outside salesmen;

(c) Employees engaged solely at maintenance and repair work, truckmen, firemen and engineers, who may be permitted to work not more than nine (9) hours in any one day, or forty-four (44) hours in any one week. These employees may also be permitted to work forty-eight (48) hours per week during any six (6) weeks in any six (6) months period. One and one-half times the normal rate of pay shall be paid for hours worked in excess of eight (8) hours per day and forty (40) hours per week.

(d) Employees on emergency maintenance or emergency repair work involving breakdowns or the protection of life or property, but in such special case at least one and one-half ($1\frac{1}{2}$) times the normal rate shall be paid for hours in excess of forty (40) hours per week and eight (8) hours per day.

(e) Watchmen, who may be employed not more than fifty-six (56) hours in any one (1) week, except watchmen in closed plants to whom this limitation shall not apply.

SECTION 2. No accounting, clerical or office employee shall be employed in excess of an average of forty (40) hours a week or nine (9) hours per day. Eight hours shall constitute a normal working day.

SECTION 3. No employer shall knowingly permit any employee to work for any time which, when totaled with that already performed with another employer or employers exceeds the maximum permitted herein.

ARTICLE IV—WAGES

SECTION 1. (a) No employee shall be paid at less than the rate of forty (40) cents per hour in the Northern section or thirty-five (35) cents per hour in the Southern section, except that:

(b) Accounting, clerical, service, sales and office employees may be paid at not less than fifteen (15) dollars per week.

(c) Office boys and office girls may be paid at not less than eighty (80) percent of the above provided minimum wage for accounting, clerical and office employees, provided that the total number of such office boys and girls receiving less than such minimum wage shall not exceed, in any calendar month more than five (5) percent of the total office employees of the employer, except that any employer may employ at least two (2) such persons as above provided.

SECTION 2. This Article establishes a minimum rate of pay, regardless of whether an employee is compensated on a time rate, piece-work, or other basis.

SECTION 3. Female employees performing substantially the same work as male employees shall receive the same rates of pay as male employees.

SECTION 4. Equitable adjustment of compensation of employees receiving more than the minimum rates of pay herein prescribed shall be made by all employers who have not heretofore made such adjustments and all employers shall within sixty (60) days after approval of this Code, report in full to the Code Authority concerning such adjustments whether made prior to or subsequent to such approval, provided, however, that in no event shall hourly rates of pay be reduced.

SECTION 5. A person whose earning capacity is limited because of age or physical handicap may be employed on light work at a wage below the minimum established by this Code if the employer obtains from the State authority designated by the United States Department of Labor a certificate authorizing his employment at such wages and for such hours as shall be stated in the certificate. Each employer shall maintain on file with the Code Authority a list of all such persons employed by him.

SECTION 6. Wages shall be exempt from any payments for pensions, insurance, or sick benefits other than those voluntarily paid by the wage earners or required by law. Wages shall be paid at least at the end of every two-week period, and salaries at least at the end of every month.

SECTION 7. The employer or his agent shall accept no rebates directly or indirectly on such wages nor give anything of value or extend favors to any person for the purpose of influencing rates of wages or the working conditions of his employees.

ARTICLE V—GENERAL LABOR PROVISIONS

SECTION 1. No person under sixteen (16) years of age shall be employed in the industry. No person under eighteen (18) years of age shall be employed at operations or occupations which are hazardous in nature or dangerous to health. The Code Authority shall submit to the Administrator within ninety (90) days, a list of such operations or occupations. In any State an employer shall be deemed to have complied with this provision as to age if he shall have on file a certificate or permit duly signed by the authority in any State empowered to issue employment or age certificates or permits showing that the employee is of the required age.

SECTION 2. In compliance with Section 7 (a) of the Act it is provided that—

(a) Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) No employee and no one seeking employment shall be required as a condition of employment to join any company union or refrain from joining, organizing, or assisting a labor organization of his own choosing.

(c) Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

SECTION 3. No employer shall reclassify employees or duties of occupations performed or engage in any other subterfuge for the purpose of defeating the purposes or provisions of the Act or of this Code.

SECTION 4. Every employer shall make reasonable provisions for the safety and health of his employees at the place and during the hours of their employment.

SECTION 5. No provisions in this Code shall supersede any State or Federal law which imposes more stringent requirements on employers as to age of employees, wages, hours of work, or as to safety, sanitary or general working conditions, or insurance or fire protection, than are imposed by this Code.

SECTION 6. Each employer shall post complete copies of the labor provisions of this Code in conspicuous places accessible to employees.

ARTICLE VI—ADMINISTRATION

To further effectuate the policies of the Act, a Code Authority is hereby constituted to cooperate with the Administrator in the administration of this Code.

SECTION 1. *Organization and Constitution of Code Authority.*—

(a) The Code Authority shall consist of three (3) individuals, or such greater number as may be approved from time to time by the Administrator, to be selected as hereinafter set forth. The Administrator, in his discretion, may appoint no more than three (3) additional members without vote to represent the Administrator and without expense to the Industry.

(b) All voting members of the Code Authority shall be selected from members of the Code and shall be elected by a vote of two thirds ($\frac{2}{3}$) of all the members of the Code.

(c) Each trade or industrial association, directly or indirectly participating in the selection or activities of the Code Authority, shall (1) impose no inequitable restrictions on membership, and (2) submit to the Administrator true copies of its articles of association, by-laws, regulations, and any amendments when made thereto, together with such other information as to membership, organization, and activities as the Administrator may deem necessary to effectuate the purposes of the Act.

(d) In order that the Code Authority shall at all times be truly representative of the Industry and in other respects comply with

the provisions of the Act, the Administrator may provide such hearings as he may deem proper; and thereafter if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Code Authority, provided that no such modification shall permit any one not a member of the Industry to become a voting member of the Code Authority.

(e) The Code Authority may adopt its own rules of procedure and may delegate its authority, or some part thereof, to such agencies or committees as it may select, but all contacts with the Administrator shall be by the Code Authority.

SECTION 2. The Code Authority shall have the following duties and powers to the extent permitted by the Act:

(a) To make recommendations to the Administrator for the coordination of the administration of this Code with such other codes, if any, as may be related to the industry.

(b) With a view to keeping the President and the members of the Industry informed as to the observance or nonobservance of the Code, and as to whether the members of the Industry are taking appropriate steps to effectuate the declared policy of the Act, the Code Authority shall report to the Administrator at such times and concerning such conditions in the industry as he may from time to time require and each member of the Industry shall file with the Code Authority such certified reports with respect to wages, hours of labor, conditions of employment, number of employees, and other matters as may be deemed pertinent by the Code Authority, or by the Administrator, to the proper administration of the Code.

(c) Members of the Industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof by signing and delivering to the President of the Association a letter assenting to and agreeing to comply with the requirements of this Code and sustaining their reasonable share of the expenses of its administration. The reasonable share of the expenses of administration shall be determined by the Code Authority on the basis of volume of business and or such other factors as may be deemed equitable to be taken into consideration.

(d) All confidential information of any nature which may be requested by the Code Authority shall be collected through an agency or agencies selected by the said Code Authority and such information shall be kept confidential by the agency, except when required by the Code Authority for the proper administration of the Code, and with the further exception that all such information shall be fully available to the Administrator at all times.

(e) The Code Authority shall designate an agent or agents, not members of the Industry, to investigate complaints of violations of the Code. The members of the Code shall facilitate such investigations by producing all pertinent data, including correspondence, books, and accounts relating to alleged violations for examination by such authorized agent and by furnishing relevant information. All such pertinent information shall be kept confidential by the agent or

agents except that, in the event of any such violation being substantiated, the Code Authority shall be informed and may present evidence thereof to the Administrator or to such department, agency, or judicial branch of the Government, as he may designate. If, upon such investigation, any complaint of a violation of the Code shall be substantiated in any material respect, the member of the Code guilty of such violation shall pay the cost of the investigation, otherwise the cost shall be borne by the complainant member of the Code.

The provisions of this subsection (e) of Section 2 of this Article VI shall only apply to those members of the Code who agree thereto in writing which shall be separate and apart from the letter of assent referred to and required of members of the Code by the provisions of subsection (c), Section 2 of this Article VI.

(f) The Code Authority shall study conditions in the Industry and shall make any recommendations from time to time for the Administrator which it deems desirable to further the policies of the Act, including, but without limitations:

Industry Merchandising Plans
Simplification and Standardization
System of Exchange of Credit Information
Inequalities affecting the Stability of the Industry

These recommendations after such notice and hearing as the Administrator may specify, shall become effective on approval by the Administrator or the President, with the same force and effect as if originally made a part hereof.

(g) The Code Authority shall cause to be formulated an accounting system and methods of cost finding and/or estimating capable of use by all members of the industry. After such system and methods have been formulated, full details concerning them shall be made available to all members. Thereafter all members shall determine and/or estimate costs in accordance with the principles of such methods.

(h) The Code Authority shall make studies with a view to the establishment of classifications and standards of quality for products of the Industry, in cooperation with some Federal Government agency or agencies.

(i) Any member of the industry shall have the right of complaint to the Code Authority and a prompt hearing and decision thereon, under such rules and regulations as it shall prescribe, in respect to any act of any agent or agency designated by the Code Authority to act in its behalf.

(j) In addition to the information required to be submitted to the Code Authority, all or any of the persons subject to the Code, agreement, or license shall furnish such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act to such Federal and State agencies as the Administrator may designate; nor shall anything in any code, agreement, or license relieve any person of any existing obligation to furnish reports to Government agencies.

(k) Nothing contained in the Code shall be deemed to constitute any of the members thereof partners for any purpose. No member of the Code shall be liable in any manner to anyone for any act of

any member or agent of the Code Authority performed pursuant to the provisions of this Code. No member of the Code and no member or agent of the Code Authority shall be liable to anyone or in any manner other than as provided in the Act, or in the Code, for any act performed in accordance with, or for any failure to act pursuant to the provisions of the Code.

ARTICLE VII—PUBLICITY OF PRICES, TERMS, AND CONDITIONS OF SALE

SECTION 1. Within seven (7) days after the effective date of this Code each member of the Industry shall publish his prices, terms, and conditions of sale on all products to his trade, each class of trade being furnished with the prices, terms, and conditions of sale affecting each such class of trade in the territory to which such prices, terms, and conditions of sale apply. Coincident with such publication, each member of the Industry shall file with the Code Authority and the Code Authority shall immediately distribute to all members of the Industry a complete schedule of such prices, terms, and conditions of sale.

SECTION 2. In the event of any change by any member of the Industry in any price, term, or condition of sale, he shall file full and complete copies of every change with the Code Authority. All such changes shall become effective immediately upon such filing unless and until the Code Authority shall designate periods within which any such changes shall become effective subject to the approval of the Administrator, but in no case shall any such period exceed seven days after the date of the filing of the change. Copies of all changes filed shall be immediately distributed by the Code Authority to the members of the Industry. On the effective date of any such change, the industry member shall publish the same to the trade concerned and coincidentally file such information in the office designated by the Code Authority for immediate distribution by the Code Authority to the members of the Industry.

SECTION 3. In the event that any member of the Industry shall not receive sufficient notice of the filing by any other member of any change in prices or terms and conditions of sale as will enable the member first mentioned to meet the said change on the effective date thereof, such member may file with the Code Authority such changes in his prices, terms, and conditions of sale as may be required to meet the change filed by the other member. Changes so filed shall become effective on the same date as the effective date of the change of the member first filing as aforesaid, or if such change had already become effective, then the changes subsequently filed shall become effective immediately.

SECTION 4. No member of the Industry shall sell, pay a rebate, or allow a deduction at any time to any person other than a member of the Industry, except in accordance with his prices, terms and conditions of sale then in effect and published in the manner described herein. Each member of the Industry shall have the right, individually, to publish new prices, terms, and conditions of sale, from time to time, as herein provided.

ARTICLE VIII—PUBLICITY OF TRADE QUALIFICATIONS

SECTION 1. Within seven (7) days after the effective date of this Code, and until a merchandising plan shall be approved for the Industry, each member of the Industry shall publish to its trade and file with the Code Authority all qualifications which have been established by him to determine the prices, terms, or conditions of sale made applicable by him to the different classes of his trade, for products covered by this Code. He shall publish to the trade and file promptly with the Code Authority any changes made by him in such qualifications and any additional qualifications.

SECTION 2. Each member shall file at such times, in such manner and at such places as may be designated by the Code Authority, the names and locations of his trade who buy at less than his published dealer prices, grouped according to his own stated qualifications then in effect. The names and locations so filed shall be available to the trade and to the members of the Industry, provided that the name of the manufacturer submitting any such names and locations shall not be disclosed without his consent, except to the extent as may be approved by the Administrator.

ARTICLE IX—TRADE PRACTICES

The following practices constitute unfair methods of competition for members of the Industry and are prohibited:

1. *False Marking or Branding.*—The false marking or branding of any product of the industry which has the tendency to mislead or deceive customers or prospective customers, whether as to grade, quality, quantity, substance, character, nature, origin, size, finish, or preparation of any product of the industry, or otherwise.

2. *Misrepresentation or False or Misleading Advertising.*—The making or causing or knowingly permitting to be made or published any false, materially inaccurate, or deceptive statement by way of advertisement or otherwise, whether concerning the grade, quality, quantity, substance, character, nature, origin, size, finish or preparation of any product of the industry, or otherwise, having the tendency or capacity to mislead or deceive customers or prospective customers.

3. *Commercial Bribery.*—No member of the industry shall give, permit to be given, or directly offer to give anything of value for the purpose of influencing or rewarding the action of any employee, agent, or representative of another in relation to the business of the employer of such employee, the principal of such agent, or the represented party, without the knowledge of such employer, principal, or party. Commercial bribery provisions shall not be construed to prohibit free and general distribution of articles commonly used for advertising except so far as such articles are actually used for commercial bribery as hereinabove defined.

4. *Interference with Contractual Relations.*—Maliciously inducing or attempting to induce the breach of an existing contract between a competitor and his customer or source of supply, involving the purchase of specific quantities of the product and/or their component parts or materials, or interfering with or obstructing the performance of any such contract.

5. *Secret Rebates.*—The secret payment or allowance of rebates, refunds, commissions, credits, or unearned discounts, whether in the form of money or otherwise, or the secret extension to certain purchasers of special services or privileges not extended to all purchasers on like terms and conditions.

6. *Giving of Prizes, Premiums, or Gifts.*—The offering or giving of prizes, premiums, or gifts in connection with the sale of products, or as an inducement thereto, by any scheme which involves lottery, misrepresentation or fraud.

7. *Defamation.*—The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations or by the false disparagement of the grade or quality of their goods.

8. *Threats of Litigation.*—The publishing or circularization of threats or suits for infringement of patents or trade marks or of any other legal proceedings not in good faith, with the tendency or effect of harassing competitors or intimidating their customers.

9. *Espionage of Competitors.*—Securing confidential information concerning the business of a competitor by false or misleading statement or representation, by a false impersonation of one in authority, by bribery, or by any other unfair method.

10. To sell for export unless the buyer has agreed not to resell the products within the United States.

11. *Fictitious Invoicing.*—To invoice fictitiously, ship in excess of quantities invoiced, make fictitious allowances or guarantees.

12. *Consignment Stocks, etc.*—To warehouse with a customer a consigned stock, or fail to prescribe definite terms or make guarantees against price decline.

13. *Other Unfair Practices.*—Nothing in this Code shall limit the effect of any adjudication by the Courts or holding by the Federal Trade Commission on complaint, finding, and order, that any practice or method is unfair, providing that such adjudication or holding is not inconsistent with the Act or any specific provision of this Code.

ARTICLE X—SELLING BELOW COST

SECTION 1. It shall constitute a violation of this Code for any member of the Industry to initiate a price or to sell any product at a net price which shall be below the said member's "direct cost." Such "direct cost" shall include the sum of the following items chargeable to the operation of such member's business in conformity with sound accounting practice, during the preceding calendar month:

(a) Direct raw material cost (inclusive of transportation and shrinkage), plus

(b) Direct labor cost, plus

(c) Manufacturing burden (inclusive of power and steam, factory overhead, maintenance expense on utilized factory equipment, technical control, utilized factory warehouse, and factory shipping charges), plus

(d) Freight allowance, cash discount, direct selling expense, depreciation and depletion allowance in accordance with Federal income tax regulations, provided that taxes, insurance, reserves of any

character, interest on investments, administration expenses, likewise interest charges on funded or other debt, and prior operating losses shall not be included in "manufacturing burden" and for the purpose of this section direct selling expenses shall include only salesmen's compensation plus salesmen's traveling expense; and provided further that any member of the industry may sell below his own "direct cost" under the following circumstances:

(e) To meet competition on prices established on industry products of competing grade and quality filed by another member of the Industry pursuant to Article VII hereof, and not directly or indirectly instigated by the party desiring to meet such competition, or

(f) To meet competition in violation of this rule concerning which he has made complaint to the Code Authority, or any authorized agency thereof, but only pending action thereon.

ARTICLE XI—GENERAL

SECTION 1. No provision of this Code shall be so applied as to permit monopolies or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprises.

SECTION 2. Corporations shall be considered to be affiliated to any corporate member of the Industry (hereinafter described as "the parent corporation") which owns a majority of the outstanding voting capital stock of the other. Any such parent corporation shall be responsible for the observance by any affiliated corporation of all the provisions of Articles III, IV, V, VII, VIII, IX, X, and XI of this Code with respect to the production and/or sale of the products covered by this Code, provided that in the event of the provisions of Article VII and VIII being observed by any such affiliated corporation of such parent corporation, then the parent corporation need not comply with the Publicity requirements of Article VII with respect to prices, terms, and conditions of sale made to such affiliated corporation.

SECTION 3. Nothing contained in this Code shall be construed as prohibiting any member of the Industry from exercising all its and/or their lawful patent rights, or as requiring any member of the Industry to do any act in conflict with the terms of any valid patent licensing agreement.

SECTION 4. Articles VII, VIII, and X shall not apply to products exported from the United States.

SECTION 5. Where the cost of executing contracts entered into in the Rock and Slag Wool Industries prior to the effective date of this Code are increased by the application of the provisions of the Code to the Industry, it is equitable and promotive of the purposes of the National Industrial Recovery Act that appropriate adjustments of such contracts be arrived at to reflect such increased costs by arbitral proceedings or otherwise. The Code Authority is constituted an agency to assist in effecting such arbitral proceedings and adjustments.

SECTION 6. Any notice, demand, or request required or permitted to be given to or to be made upon any member of the Industry shall be sufficiently given if sent by registered mail, postage prepaid,

addressed to such member of the Industry at his address on file with the Code Authority.

SECTION 7. If the Administrator shall determine that any action of a Code Authority or agency thereof may be unfair or unjust or contrary to the public interest, the Administrator may require that such action be suspended to afford an opportunity for such investigation of the merits of such action and further consideration by such code authority or agency pending final action which shall not be effective unless the Administrator approves or unless he shall fail to disapprove after thirty days' notice to him of intention to proceed with such action in its original or modified form.

ARTICLE XII—MODIFICATION

SECTION 1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of subsection (b) of Section 10 of the Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under Title I of said Act.

SECTION 2. The provisions of the Code shall remain in effect unless and until so modified or eliminated, or until the expiration of the Act; namely, June 16, 1935, or sooner, if the President shall, by proclamation, or Congress shall, by joint resolution, declare the emergency recognized by Section 1, Title I, of the Act ended.

ARTICLE XIII—EFFECTIVE DATE

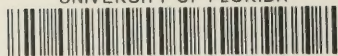
SECTION 1. This Code shall become effective on the second Monday after its approval by the President.

Approved Code No. 321.

Registry No. 1630-07.



UNIVERSITY OF FLORIDA



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